

# Bounced rental cheques may incur jail or eviction



**LEGAL VIEW**  
**ASHISH MEHTA**

**Q:** I reside in a one bed room apartment in Dubai. I want to know whether dishonour of cheque attracts immediate legal action. For instance, if I do not maintain enough money in the bank account on the day when the rental cheque is due to be presented by the owner, does that immediately become a financial fraud?

**A:** Dishonour of a cheque due to insufficient funds in the account of the issuer of a cheque is a criminal offence. An owner of a property who is the beneficiary named on a cheque may file a criminal case against the person who has signed a cheque. Upon dishonour of a cheque issued and signed by you, the owner of your apartment may lodge a criminal complaint against you with the public prosecution or at the police station having jurisdiction in accordance with Article 401 of Federal Law No. 3 of 1987 on issuance of Penal Code (the "Criminal Law") of UAE which states:

"Detention or a fine shall be imposed on anyone who, in bad faith, gives a draft (cheque) without a sufficient and drawable balance or who, after giving a cheque, withdraws all or part of the balance, making the balance insufficient for settlement of the cheque, or if he orders a drawee not to cash a cheque or makes or signs the cheque in a manner that prevents it from being cashed.

"The same penalty shall apply to anyone who endorses a cheque in favour of another or gives him a bearer draft, knowing that there is no sufficient balance to honour the cheque or that it is not drawable."

Further, since this cheque was issued by you towards rent of your apartment, the owner of your apartment may file for evicting you from the apartment with the Dubai Rental Dispute Centre if the rent is not paid within 30 days of notice.

This is in accordance with Article 25 (1) (a) of the Law No. 33 of 2008 Amending some provisions of Law No. 26 of 2007 Regulating Relationship Between Landlords & Tenants in the Emirate of Dubai", which states:

"Landlord may demand eviction of tenant prior to expiry of tenancy period if the tenant fails to pay rent value, or part thereof, within 30 days of landlord's notification for payment; unless parties



## Know the law

A dishonour of a cheque does not automatically become a criminal or a civil case until the owner of your apartment files a criminal complaint or a civil claim against you. You may settle the amount of the cheque directly with the owner of your apartment before the owner initiates any legal action against you.

agreed otherwise. And for the purpose of this clause (1) of this Article the landlord must notify the tenant through the Notary Public or by registered mail."

However, a dishonour of a cheque does not automatically become a criminal or a civil case until the owner of your apartment files a criminal complaint or a civil claim against you. You may settle the amount of the cheque directly with the owner of your apartment before the owner initiates any legal action against you.

Further, the owner of the property may also file a civil case against if you don't settle the amount of the cheque. The limitation period to file a civil case for dishonour of cheques is one to three years.

This is in accordance with Article 638 of the Federal Law No. 18 of 1993 on the

issuance of The Commercial Transactions Law, which states:

"In case of denial and lack of legitimate excuse the following actions shall not be heard:-

1. Actions of recourse by the bearer of a cheque against the drawer, endorsers and other parties liable for the payment of the cheque or from the date of the judicial claim lodged for payment thereof.

2. Actions of recourse by the parties liable thereon against each other after the lapse of one year from the date on which the party liable thereon has paid the value of the cheque or from the date of the judicial claim lodged for payment thereof.

3. Action of the bearer against the drawee after three years from the expiry of the time limit set for presentation of the cheque.

4. The foregoing time limitations shall neither apply to a drawer who has not presented a consideration for payment or has provided it then has withdrawn it in whole or in part, nor to the actions against all the parties liable thereon who have realised an illegitimate profit."

## Will deportation affect my trip?

**Q:** I was employed by a firm in Abu Dhabi, which has now been shut down due to financial difficulties.

The employer did not renew my employment visa before it was shut. I overstayed in the country and later got deported from Abu Dhabi. Now I work in Saudi Arabia and intend to transit via Abu Dhabi airport. Will I be stopped at the Abu Dhabi airport?

**A:** Pursuant to your queries, you may transit at Abu Dhabi airport as you are not entering the UAE.

However you may obtain further clarification from the General Directorate of Residency and Foreigners Affairs in Abu Dhabi.

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